

CORRECTION NOTICE

THE SILVERTOWN TUNNEL ORDER 2018 (S.I. 2018 No. 574)

SCHEDULE 4 TO THE PLANNING ACT 2008 CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

21 February 2019

The Secretary of State received a request dated 15 May 2018 from the Health and Safety Executive and a request dated 21 June 2018 from Pinsent Masons acting on behalf of Transport for London (“the Applicant”) for the correction of errors and omissions in the Silvertown Tunnel Order 2018 (“the Order”), under paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

Corrections to the Articles

Article 2

- In paragraph (1), in the definition of “TfL”, for “Windsor House, 42 Victoria Street, London, SW1H 0TL” substitute “55 Broadway, London, SW1H 0BL”.

Secretary of State’s rationale: To provide correct, updated address details.

Article 3

- At the end of paragraph (3) insert “and, within any maintenance period referred to in paragraph (1), any maintenance of any part of the authorised development”.

Secretary of State’s rationale: To make article 3(3) consistent with article 3(1).

Article 22

- In paragraph (3) for “paragraph 10” substitute “paragraph 5(8)”.

Secretary of State’s rationale: To correct a cross-referencing error.

Article 25

- In paragraph (5)(b) omit “end”.

Secretary of State’s rationale: To correct a typographical error.

Article 26

- In paragraph (10) for “1965Act” substitute “1965 Act”.

Secretary of State’s rationale: To correct a typographical error.

Article 44

- In paragraph (15) for “liably” substitute “liable”.

Secretary of State rationale: To correct a typographical error.

Article 47

- In paragraph (1) for “69” substitute “68”.

Secretary of State’s rationale: To correct a cross-referencing error.

Corrections to Schedules

Schedule 2 Part 1 Requirement 5

- In sub-paragraph (3)(a) omit “including the London Borough of Newham, such scheme of ventilation at the Hoola building as necessary to reduce the exposure of first floor residential accommodation to nitrogen oxide to acceptable levels”.

Secretary of State’s rationale: See Schedule 2 Part 1 Requirement 7 below.

- In sub-paragraph (3)(k) for “in consultation with the relevant planning authority and the PLA” substitute “by the relevant planning authority in consultation with the PLA”.

Secretary of State’s rationale: to clarify that it is for the relevant Planning Authority to approve the Construction Environmental Management Plan.

Schedule 2 Part 1 Requirement 6

- In sub-paragraph (2)(c) for “avenue” substitute “Avenue”.

Secretary of State’s rationale: to correct a typographical error.

Schedule 2 Part 1 Requirement 7

- After sub-paragraph (17) insert:—

“Hoola building

(18) No part of the authorised development is to be opened for public use until a scheme of mitigation (which may consist of or include ventilation) to reduce to acceptable levels any exposure to nitrogen dioxide which occurs as a result of the authorised development at the first floor residential accommodation at the Hoola building, has been submitted to and approved by the London Borough of Newham (“the Hoola scheme of mitigation”).

(19) TfL must implement the approved the Hoola scheme of mitigation.”

Secretary of State’s rationale: To amend Requirement 5(3)(a) so that any scheme of ventilation to be implemented at the Hoola building is provided for in a stand alone Requirement and to make clear that: the Hoola scheme of mitigation must be provided before the Silvertown Tunnel opens for public use, rather than before construction commences; the mitigation is provided to address concerns that an increase in nitrogen dioxide levels occurring from the operation of the authorised development; that the London Borough of Newham is to approve any mitigation measures they consider appropriate to reduce nitrogen dioxide concentrations at the Hoola building to acceptable levels.

Schedule 2 Part 1 Requirement 13

- For “local planning authority” substitute “relevant planning authority”.

Secretary of State’s rationale: To correct a typographical error.

Schedule 2 Part 1 Requirement 14

- In sub-paragraph (4) insert—

““the Assessed Case” has the meaning given to that expression in the bus strategy;”;

““the Refreshed Assessment” means the updated assessment of the impacts of the authorised development carried out by TfL in accordance with section 1.5 of the bus strategy.”

Secretary of State’s rationale: To include the definitions of omitted terms to ensure clarity.

Schedule 2 Part 1 Requirement 15

- In sub-paragraph (2) omit each reference to “local”.
- After sub-paragraph (2), insert—

“(3) In this requirement “the monitoring period” has the same meaning as in paragraph 14(4) (cross -river bus services) .”

Secretary of State’s rationale: To correct typographical errors and to provide clarity.

Schedule 2 Part 1, Requirements 18(1) & 19(1)

- To renumber paragraphs 18(1) and 19(1) to 18 and 19

Secretary of State’s rationale: to correct formatting errors.

- In renumbered paragraph 19 for the “Secretary of State” substitute “TfL”.

Secretary of State’s rationale: to be consistent with the Requirement set out in Schedule 2 Part 1, Requirement 18 – the Secretary of State’s intention was for the Health and Safety Executive to advise TfL directly.

Schedule 2 Part 1 Requirement 20

- For paragraph 20 substitute:

“(1) The works to implement the authorised development must be undertaken in a manner that will maximise the potential for re-use of suitable excavated material.

(2) Prior to the commencement of any part of the authorised development, for that part of the authorised development, details of the storage of suitable excavated material and of its subsequent re-use within or adjoining the Order limits must be submitted to and approved by the relevant planning authority.

(3) Each part of the authorised development must be carried out in accordance with the details of the storage and re-use of excavated material approved under sub-paragraph (2).

(4) In this paragraph, “suitable excavated material” means material which is suitable for reuse in accordance with the Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste¹ and CL:AIRE The Definition of Waste: Development Industry Code of Practice (version 2, March 2011).”

¹ O.J. No. L 312, 22.11.2008, p. 3.

Secretary of State's rationale: To provide greater clarity.

Schedule 13 Part 5

- In paragraph 54, in the definition of "main river", for "Department of" substitute "Department for".

Secretary of State's rationale: To correct typographical error.

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118(4) of the Planning Act 2008, a decision under paragraph 1 of Schedule 4 to correct an error in an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order making the correction is published. The Silvertown Tunnel (Correction) Order 2019 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/london/silvertown-tunnel/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Correction Order referred to in this notice is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).

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